

BEFORE THE

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Federal Communications Commission

WASHINGTON, D.C. 20554

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AUG 27 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
ICO SERVICES LIMITED) RM No. 9328
)
Petition for Expedited Rule Making to)
Establish Eligibility Requirements for the)
2 GHz Mobile Satellite Service)

To the Commission:

COMMENTS OF THE ICO USA SERVICE GROUP

A newly formed consortium of telecommunications oriented companies, the ICO USA Service Group ("IUSG"),¹ by its attorneys, hereby submits these comments in support of the Petition for Expedited Rule Making to Establish Eligibility Requirements for the 2 GHz Mobile Satellite Service ("Petition") filed by ICO Services Limited ("ICO") on July 17, 1998. In its Petition, ICO requests that the Commission rapidly establish eligibility requirements for the MSS in the 2 GHz bands and authorize qualified new entrants to the U.S. MSS market in those bands on a conditional basis, subject to inter-system coordination and the adoption of a final 2 GHz MSS band plan

¹ The IUSG consists of British Telecommunications, PLC ("BT"), Hughes Telecommunications and Space Company ("Hughes"), Telecomunicaciones de Mexico ("Telecom de Mexico") and TRW Inc. ("TRW"). BT, Hughes, Telecom de Mexico and TRW are all investors in the 2 GHz satellite system planned by ICO Services Limited, and are investigating the provision of ICO Mobile Satellite Service ("MSS") in the United States.

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and final service rules. As discussed more fully below, IUSG believes that grant of ICO's Petition will greatly serve the public interest by creating significant additional competition in the U.S. MSS market and generating substantial benefits for the U.S. economy.

I. It is Essential that the Commission Begin to License Qualified 2 GHz MSS Systems at the Earliest Possible Time.

IUSG supports ICO's request that the Commission adopt rules on an expedited basis for authorizing qualified applicants seeking to provide MSS in the 2 GHz frequency bands. The tone of urgency in ICO's request is appropriate, given the fact that no entity has yet been authorized to provide MSS in the United States in the 2 GHz bands in the more than six years since the 1992 World Administrative Radio Conference allocated spectrum in those bands to MSS operations. Moreover, the expedited action that ICO seeks is critical to the timely commencement of its MSS system. Unlike many other applicants seeking authority to provide MSS to the U.S. market at 2 GHz, whose system proposals appear (at this time at least) speculative at best, ICO has taken concrete and significant steps towards meeting its goal of commencing 2 GHz MSS service in the United States in the year 2000. Indeed, ICO plans to launch the first satellite in its constellation in the last quarter of this year.

ICO's timetable will be severely disrupted, however, unless the Commission adopts 2 GHz MSS licensing procedures on an accelerated schedule. Further

regulatory delays will inevitably postpone the commencement of ICO's service — as well as the service of other entities similarly committed to providing MSS at 2 GHz in the near future — and slow the development of additional competition in the U.S. MSS industry. Such delays would also hold in abeyance the significant benefits that the U.S. economy will derive from ICO's 2 GHz MSS system, including the creation of new investment opportunities and numerous jobs at U.S. companies. Because the public interest will best be served by vigorous MSS competition and by the perpetuation of today's robust economy through investment and job creation, IUSG urges the Commission to adopt ICO's Petition and establish licensing procedures for the MSS at 2 GHz at the earliest possible time.

II. The Commission's Service Rules Should Limit Consideration at this Time to the Licensing of New Entrants.

IUSG believes the Commission should adopt ICO's proposal to defer consideration of the applications of existing MSS licensees to operate in the 2 GHz bands until a later phase of this proceeding. In accordance with its mandate to act in the public interest, the Commission should place a priority on enhancing competition through the introduction of new entrants in the U.S. MSS market. The licensing of the four "Big LEO" entities to access the 2 GHz MSS bands will not introduce new competition, as those entities are already licensed to compete in the MSS market. Moreover, the Big LEO entities have yet to begin to provide MSS in the 1.6/2.4 GHz

bands pursuant to the licenses that they have been granted, and therefore have no compelling need for any 2 GHz MSS spectrum in the near term. By limiting the grant of conditional 2 GHz MSS licenses to new entrants to the MSS marketplace at this time, the Commission can promote additional competition in that marketplace and prevent spectrum warehousing by parties that are unlikely to make use of 2 GHz spectrum anytime soon.

III. The Commission Should Adopt 2 GHz MSS Service Rules on a Bifurcated Basis So That Eligible Systems Are Deployed Without Delay.

In its Petition, ICO requests that the Commission adopt a bifurcated service rule proceeding, with shortened comment periods, to ensure that 2 GHz applicants with inadequately developed systems do not delay the provision of services by applicants whose systems are ready for implementation. IUSG strongly supports this approach. Under a bifurcated proceeding, the Commission could speedily adopt eligibility requirements that would allow for the prompt conditional licensing of qualified applicants, and postpone consideration of system proposals filed by applicants that are not legally, financially or technically qualified to provide MSS in the United States at 2 GHz at this time. The Commission could thereby avoid delays that might otherwise be caused by any alleged mutual exclusivity among applicants, and also could prevent unqualified applicants from warehousing scarce and valuable spectrum. All other service rules not related to an applicant's eligibility (including the adoption of a

spectrum band plan)² would be deferred to a later phase of the same proceeding so as not to delay the conditional licensing process.

The eligibility requirements that the Commission adopts should ensure that each MSS entrant at 2 GHz has the means to construct, launch and operate its proposed system. ICO suggests, and IUSG agrees, that the Big LEO licensing provisions should serve as a “partial template” for the 2 GHz eligibility requirements, given the similarity between the two services. The specific Big LEO rules cited by ICO — including, inter alia, provisions for the grant of a single system license, a requirement of continuous U.S. service, the mandatory submission of technical descriptions of systems and demonstrations of financial qualification — each logically apply to 2 GHz MSS.³ In addition, IUSG supports ICO’s proposal that the Commission require 2 GHz MSS systems to employ only non-geostationary (“NGSO”) constellations and provide global coverage, at least in that portion of the 2 GHz spectrum band allocated on a global

² In view of the limited number of systems likely to become operational in the near term, there is almost no possibility of spectrum congestion during the conditional licensing phase, so a spectrum band plan is not necessary at this time.

basis to MSS.⁴ The Commission should evaluate applications that do not meet these minimum eligibility requirements at a later date.

IV. The Commission Should Conditionally License Eligible NGSO Entrants To Use At Least the Entire Global 2 GHz MSS Allocation.

IUSG supports the proposal of ICO that new NGSO MSS entrants that satisfy the Commission's 2 GHz MSS eligibility requirements in the initial licensing phase of this proceeding be licensed conditionally to access at least the entire common global 2 GHz MSS spectrum, subject to intersystem coordination and the adoption by the Commission of a final band plan and other service rules. As ICO points out, access by such entrants to the entire global 2 GHz MSS spectrum would serve the public interest by providing entities licensed in the initial licensing phase with maximum operational flexibility. In this connection, IUSG supports ICO's request that any new geostationary entrant that meets the Commission's initial eligibility requirements be licensed conditionally to access a portion of the spectrum allocated to MSS only in Region 2. Such licenses, like those for NGSO systems, would then be subject to intersystem coordination as well as the 2 GHz MSS band plan and other 2 GHz MSS service rules ultimately adopted by the Commission.

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As IUSG explains further in Section IV below, any geostationary system entrant that satisfies the Commission's eligibility requirements should be licensed conditionally to operate in a portion of the 2 GHz spectrum allocated only in Region 2.

V. **Conclusion**

For the foregoing reasons, IUSG requests that the Commission adopt ICO's Petition for a bifurcated proceeding that would permit the expedited adoption of licensing rules for the MSS in the 2 GHz band, and rapidly authorize qualified new entrants to the U.S. MSS market to access the available 2 GHz MSS spectrum on a conditional basis.

Respectfully submitted,

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